

ESTTA Tracking number: **ESTTA595407**

Filing date: **03/28/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058411
Party	Plaintiff Luxco, Inc.
Correspondence Address	MICHAEL R ANNIS HUSCH BLACKWELL LLP 190 CARONDELET PLAZA, STE 600 ST LOUIS, MO 63105 UNITED STATES mike.annis@huschblackwell.com
Submission	Answer to Counterclaim
Filer's Name	Michael R. Annis
Filer's e-mail	andy.gilfoil@huschblackwell.com, mike.annis@huschblackwell.com, alan.nemes@huschblackwell.com
Signature	/s/ Michael R. Annis
Date	03/28/2014
Attachments	Answer.PDF(35812 bytes )

**CERTIFICATE OF MAILING VIA ELECTRONIC TRANSMISSION**

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals on March 28, 2014.

/s/ Andrew Gilfoil

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Mark: REBELLION  
U.S. Application Serial No. 85/444,902  
U.S. Registration No. 4,407,601

---

LUXCO, INC.,	)	
	)	
Petitioner/Counter Registrant,	)	
	)	
v.	)	Cancellation No. 92/058,411
	)	
OPICI IP HOLDINGS, LLC,	)	
	)	
Registrant/Counter Petitioner.	)	

---

**LUXCO'S ANSWER AND AFFIRMATIVE DEFENSES TO  
REGISTRANT'S FIRST COUNTERCLAIM FOR CANCELLATION  
OF U.S. REGISTRATION NOS. 072786 & 3632812**

Petitioner/Counter Registrant Luxco, Inc. ("Luxco"), by and through its undersigned attorneys, provides the following Answer and Affirmative Defenses to the First Counterclaim for Cancellation of U.S. Registration Nos. 0727786 and 3632812, submitted by Registrant/Counter Petitioner Opici IP Holdings LLC ("Opici"), as follows, using the same paragraph numbering convention used by Opici") in its counterclaims [Dkt. 4]:

25. Luxco is without information sufficient to form a belief as to the truth of the allegation contained in paragraph 25 of the counterclaims of Registrant/Counter Petitioner Opici, and accordingly denies the same.

26. Denied.

27-28. Luxco makes no answer to what Registrant/Counter Petitioner Opici's nominated as its "second counterclaim" and "third counterclaim." As Luxco has, of even date herewith, moved to Dismiss those "counterclaims" as set forth in paragraphs 27.-28.

29. Luxco denies that Registrant/Counterclaim Petitioner has any legal right to use the mark REBELLION in commerce as a trademark and further states that U.S. Registration No. 4,407,601 must be cancelled for the reasons set forth in Luxco's Petition to Cancel the same [Dkt. 1]. Except as so expressly admitted. Luxco denies the allegations of paragraph 29.

30. Denied.

#### **AFFIRMATIVE DEFENSES**

**First Affirmative Defense:** For further answer, and as an affirmative defense, Luxco states that Opici's first counterclaim fails to state a claim upon which relief may be granted.

WHEREFORE, premises considered, Petitioner/Counterclaim Registrant Luxco, Inc. prays for an Order of the Board cancelling U.S. Registration No. 4,407,601, that the Board enter judgment in Luxco's favor thereon, that the Board deny Registrant/Counterclaim Petitioner's first counterclaim herein, and for such other and further relief as the board deems just and proper.

DATED: March 28, 2014.

Respectfully Submitted,

By: /Michael Annis/  
Michael R. Annis  
Andrew R. Gilfoil  
HUSCH BLACKWELL LLP  
190 Carondelet Plaza, Suite 600  
St. Louis, MO 63108  
Telephone: (314) 480-1500  
Facsimile: (314) 480-1505  
mike.annis@huschblackwell.com  
andy.gilfoil@huschblackwell.com

*Attorneys for Luxco, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that a copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES was served by First Class Mail, postage prepaid on this 28th day of March, 2014, upon:

Stephen L. Baker  
Baker & Rannells P.A.  
575 Route 28, Ste. 102  
Raritan, New Jersey 08869-1354

/Andrew Gilfoil/